

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Terre Haute)
CIVIL DOCKET FOR CASE #: 2:20-cv-00614-JPH-MKK**

CARTER v. BROWN
Assigned to: Judge James Patrick Hanlon
Referred to: Magistrate Judge M. Kendra Klump
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/23/2020
Jury Demand: Defendant
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff**ANTWION CARTER**

represented by **ANTWION CARTER**
128406
WABASH VALLEY - CF
WABASH VALLEY CORRECTIONAL
FACILITY - Inmate Mail/Parcels
6908 S. Old US Hwy 41
P.O. Box 1111
CARLISLE, IN 47838
PRO SE

V.

Defendant**RICHARD BROWN**

represented by **Eric Ryan Shouse**
Lewis And Wilkins LLP
8777 Purdue Rd
Suite 104
Indianapolis, IN 46268
317-636-7460
Email: shouse@lewisandwilkins.com
ATTORNEY TO BE NOTICED

Jordan Douglas Hall
Lewis and Wilkins LLP
8777 Purdue Rd
Ste 104
Indianapolis, IN 46268
309-826-9340
Email: hall@lewisandwilkins.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/23/2020	<u>1</u>	COMPLAINT against RICHARD BROWN, filed by ANTWION CARTER. (No fee paid with this filing) (Attachments: # <u>1</u> Exhibit A Report of Conduct, Report of Investigation, # <u>2</u> Exhibit B Notices, Postponement, # <u>3</u> Exhibit C Report of Disciplinary Hearing,

		Telephone Log, # <u>4</u> Exhibit D Disciplinary Hearing Appeal, # <u>5</u> Exhibit E IDOC decision, # <u>6</u> Exhibit F Notice of Electronic Filing, excerpt of document, Modification of Visiting Privileges)(DJH) (Entered: 11/23/2020)
11/23/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis filed by Plaintiff, ANTWION CARTER. (Attachments: # <u>1</u> Certified Counselors Statement, Affidavit)(DJH) (Entered: 11/23/2020)
11/23/2020	<u>3</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DJH) (Entered: 11/23/2020)
11/24/2020	<u>4</u>	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. Copy distributed to Plaintiff via US mail. (TMC) (Entered: 11/24/2020)
12/03/2020	<u>5</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff is assessed an initial partial filing fee of Seven Dollars and Fifty-Five Cents (\$7.55). The plaintiff shall have through December 30, 2020, in which to pay this sum to the clerk of the district court. Copy to Plaintiff via US Mail. Signed by Judge James Patrick Hanlon on 12/3/2020. (KAA) (Entered: 12/03/2020)
12/21/2020	<u>6</u>	Mail Returned as undeliverable, Released 11-23-20. <u>5</u> Order on Motion for Leave to Proceed in forma pauperis sent to ANTWION CARTER, WVCF. (AAS) (Entered: 12/21/2020)
12/28/2020	<u>7</u>	Docket <u>5</u> resent to Plaintiff ANTWION CARTER 128406 at WABASH VALLEY - CF based on IDOC website. (TMC) (Entered: 12/28/2020)
01/13/2021	<u>8</u>	RECEIPT #IP072133 for initial partial filing fee in the amount of \$7.55, paid by Plaintiff. (REO) (Entered: 01/13/2021)
01/21/2021	<u>9</u>	CONSENT to Jurisdiction to US Magistrate Judge by ANTWION CARTER. (Attachments: # <u>1</u> Envelope)(AAS) (Entered: 01/21/2021)
02/01/2021	<u>10</u>	ORDER Directing Monthly Payments totaling \$350 be made from Prison Account of ANTWION CARTER. Copy sent to parties via US Mail. Signed by Judge James Patrick Hanlon on 2/1/2021.(JRB) (Entered: 02/01/2021)
05/11/2021	<u>11</u>	RECEIPT #IP073927 for partial filing fee in the amount of \$342.45, paid by ANTWION CARTER. (DJH) (Entered: 05/11/2021)
05/20/2021	<u>12</u>	Entry Screening Complaint and Directing Further Proceedings - If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through June 21, 2021, in which to identify those claims. The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendant Warden Richard Brown in the manner specified by Rule 4(d). The clerk is directed to serve the Warden, an Indiana Department of Correction employee electronically. Copy to plaintiff via US Mail. Signed by Judge James Patrick Hanlon on 5/20/2021.(KAA) (Entered: 05/20/2021)
05/20/2021	<u>13</u>	NOTICE of Lawsuit & Waiver Issued by Clerk upon: Warden Richard Brown. (KAA) (Entered: 05/20/2021)
05/20/2021	<u>14</u>	Documents to be Sent via Electronic Notice - re <u>1</u> Complaint, <u>12</u> Entry, <u>13</u> NOTICE of Lawsuit & Waiver Issued by Clerk Electronic Notice to IDOC. (KAA) (Entered: 05/20/2021)
06/04/2021	<u>15</u>	Order Terminating Collection Order - The Court's records reflect that the full filing fee for this case has now been paid. See dks. 8 and 11 (receipts). Accordingly, the Warden is directed to stop making payments as directed by the Order of February 1, 2021. The clerk is directed to mail a copy of this Order to the plaintiff's custodian. Copies to plaintiff and

		Warden via US Mail. Signed by Magistrate Judge Doris L. Pryor on 6/4/2021.(KAA) (Entered: 06/04/2021)
06/21/2021	<u>16</u>	NOTICE of Appearance by Molly Michelle McCann on behalf of Defendant RICHARD BROWN. (McCann, Molly) (Entered: 06/21/2021)
06/21/2021	<u>17</u>	WAIVER OF SERVICE Returned Executed, filed by RICHARD BROWN. RICHARD BROWN waiver sent on 5/20/2021. (McCann, Molly) (Entered: 06/21/2021)
07/19/2021	<u>18</u>	<i>Defendant's</i> ANSWER to <u>1</u> Complaint , filed by RICHARD BROWN.(McCann, Molly) (Entered: 07/19/2021)
08/10/2021	<u>19</u>	MOTION to Amend Petition, filed by Plaintiff ANTWION CARTER. (TPS) (Entered: 08/11/2021)
08/23/2021	<u>20</u>	Order Directing Development of Exhaustion Defense and Issuing Partial Stay - The defendant's exhaustion defense will be resolved pursuant to the following schedule. The defendant shall have through September 22, 2021, in which to either: SEE ORDER. The failure to pursue any of these options by the above deadline constitutes an abandonment of the exhaustion defense. Copy to plaintiff via US Mail. Signed by Magistrate Judge Doris L. Pryor on 8/23/2021.(KAA) (Entered: 08/23/2021)
08/25/2021	<u>21</u>	Order Denying Motion to Amend Complaint - denying <u>19</u> Motion to Amend Complaint. There is no proposed amended complaint attached to the motion as required by local rules. Copy to plaintiff via US Mail. Signed by Judge James Patrick Hanlon on 8/25/2021. (KAA) (Entered: 08/25/2021)
09/22/2021	<u>22</u>	MOTION for Summary Judgment based on Exhaustion Defense , filed by Defendant RICHARD BROWN. (Attachments: # <u>1</u> Exhibit A: Declaration of T Wellington, # <u>2</u> Exhibit B: IDOC Policy 00-02-301, # <u>3</u> Exhibit C: Grievance History)(McCann, Molly) Modified on 3/28/2022 (MEH). (Entered: 09/22/2021)
09/22/2021	<u>23</u>	BRIEF/MEMORANDUM in Support re <u>22</u> MOTION for Summary Judgment , filed by Defendant RICHARD BROWN. (McCann, Molly) (Entered: 09/22/2021)
09/22/2021	<u>24</u>	NOTICE <i>re Right to Respond</i> , filed by Defendant RICHARD BROWN, re <u>22</u> MOTION for Summary Judgment . (McCann, Molly) (Entered: 09/22/2021)
10/22/2021	<u>25</u>	***PLEASE DISREGARD. STRICKEN PURSUANT TO DKT <u>33</u> .*** RESPONSE in Opposition re <u>22</u> MOTION for Summary Judgment , filed by Plaintiff ANTWION CARTER. (TPS) (Entered: 10/22/2021)
11/05/2021	<u>26</u>	***PLEASE DISREGARD. STRICKEN PURSUANT TO DKT <u>33</u> .*** REPLY in Support of Motion re <u>22</u> MOTION for Summary Judgment , filed by Defendant RICHARD BROWN. (McCann, Molly) (Entered: 11/05/2021)
11/16/2021	<u>27</u>	***PLEASE DISREGARD. STRICKEN PURSUANT TO DKT <u>33</u> .*** Surreply in Opposition to <u>22</u> MOTION for Summary Judgment , filed by Plaintiff ANTWION CARTER. (KAA) (Entered: 11/16/2021)
11/23/2021	<u>28</u>	MOTION for Leave to File Belated Amended Motion in Opposition to Defendant's Motion for Summary Judgment, filed by Plaintiff ANTWION CARTER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Declaration, # <u>3</u> Proposed Amended Motion, # <u>4</u> Proposed Amended Memo) (JRB) (Entered: 11/29/2021)
11/23/2021	<u>29</u>	MOTION for Leave to File Belated Amended Motion re Dkt. <u>22</u> , filed by Plaintiff ANTWION CARTER. (AAS) (Entered: 11/30/2021)
11/23/2021	<u>30</u>	MOTION for Leave to File Belated Amended Motion, filed by Plaintiff ANTWION

		CARTER. (TPS) (Entered: 12/01/2021)
01/21/2022	<u>31</u>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by ANTWION CARTER. Copy/Copies provided via US Mail. (Attachments: # <u>1</u> Public Docket Sheet) (TPS) (Entered: 01/24/2022)
01/28/2022	<u>32</u>	NOTICE of Substitution of Appearance by Adrienne Nicole Pope replacing <i>Molly M. McCann</i> on behalf of RICHARD BROWN (Pope, Adrienne) (Entered: 01/28/2022)
02/28/2022	<u>33</u>	ORDER Directing Further Proceedings - Plaintiff's motions, dks. <u>28</u> , <u>29</u> , and <u>30</u> , are granted to the extent that he shall have though March 28, 2022, in which to file a single amended response in opposition to the motion for summary judgment. Defendant will then have 14 days to file a reply. The response and reply must include all arguments the parties intend to raise because the clerk is directed to strike the original response, dkt <u>25</u> , reply <u>26</u> , and surreply, <u>27</u> . Copy sent to plaintiff via US Mail. Signed by Magistrate Judge Doris L. Pryor on 2/28/2022. (TPS) (Entered: 03/01/2022)
03/07/2022	<u>34</u>	MOTION of Clarification, filed by Plaintiff ANTWION CARTER. (AAS) (Entered: 03/07/2022)
03/07/2022	<u>35</u>	Amended RESPONSE in Opposition re <u>22</u> MOTION for Summary Judgment , filed by Plaintiff ANTWION CARTER. (AAS) (Entered: 03/07/2022)
03/07/2022	<u>36</u>	Amended BRIEF/MEMORANDUM in Support of Amended Response in Opposition to Motion re <u>22</u> MOTION for Summary Judgment , filed by Plaintiff ANTWION CARTER. (Attachments: # <u>1</u> Exhibit)(AAS) (Entered: 03/07/2022)
03/07/2022	<u>37</u>	DECLARATION of Antwion Carter re <u>35</u> Response in Opposition to Motion by ANTWION CARTER. (AAS) (Entered: 03/07/2022)
03/21/2022	<u>38</u>	MOTION for Extension of Time to 7 Days <i>REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION</i> , filed by Defendant RICHARD BROWN. (Pope, Adrienne) (Entered: 03/21/2022)
03/22/2022	<u>39</u>	Submission of Proposed Order , re <u>38</u> MOTION for Extension of Time to 7 Days <i>REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION</i> , filed by Defendant RICHARD BROWN. (Pope, Adrienne) (Entered: 03/22/2022)
03/24/2022	<u>40</u>	ORDER granting <u>38</u> Defendant's Motion for Extension of Time to File. The Defendant shall have to and including March 28, 2022 by which to file a reply to Plaintiff's Response in Opposition. Copy to plaintiff via US Mail. Signed by Magistrate Judge Doris L. Pryor on 3/24/2022. (KAA) (Entered: 03/25/2022)
03/25/2022	<u>41</u>	NOTICE OF WITHDRAWAL OF EXHAUSTION DEFENSE REGARDING <i>FOURTEENTH AMENDMENT CLAIM</i> , filed by Defendant RICHARD BROWN, re <u>22</u> MOTION for Summary Judgment , <u>18</u> Answer to Complaint. (Pope, Adrienne) (Entered: 03/25/2022)
03/25/2022	<u>42</u>	REPLY in Support of Motion re <u>22</u> MOTION for Summary Judgment , filed by Defendant RICHARD BROWN. (Pope, Adrienne) (Entered: 03/25/2022)
06/07/2022	<u>43</u>	ORDER granting <u>34</u> Motion for Clarification to the extent that Plaintiff's Amended Response, dkt. <u>35</u> , Amended Brief in Support, dkt. <u>36</u> , and Declaration, dkt. <u>37</u> , are deemed properly filed. Copy sent to plaintiff via US mail. Signed by Judge James Patrick Hanlon on 6/7/2022. (TPS) (Entered: 06/08/2022)
09/19/2022	<u>44</u>	Order Granting Defendant's Motion for Partial Summary Judgment - Warden Brown's motion for partial summary judgment, dkt. <u>22</u> , is granted. Mr. Carter's Eighth Amendment claim is dismissed without prejudice. Mr. Carter's due process claims shall proceed. (SEE

		ORDER) Copy to plaintiff via US Mail. Signed by Judge James Patrick Hanlon on 9/19/2022. (KAA) (Entered: 09/19/2022)
11/29/2022	<u>45</u>	NOTICE of Appearance by Eric Ryan Shouse on behalf of Defendant RICHARD BROWN. (Shouse, Eric) (Entered: 11/29/2022)
12/12/2022	<u>46</u>	Reassignment of Case to Magistrate Judge Mark J. Dinsmore. Magistrate Judge Doris L. Pryor is no longer assigned to this case. Please include the new case number (2:20-cv-00614-JPH-MJD), which includes the initials of the newly assigned judge, on all future filings in this matter. (JD) (Entered: 12/12/2022)
12/13/2022	<u>47</u>	MOTION to Withdraw Attorney Appearance , filed by Defendant RICHARD BROWN. (Attachments: # <u>1</u> Text of Proposed Order)(Pope, Adrienne) (Entered: 12/13/2022)
12/19/2022	<u>48</u>	ORDER granting <u>47</u> Motion to Withdraw Attorney Appearance. Attorney Adrienne Nicole Pope withdrawn. Copy sent to plaintiff via US mail. Signed by Magistrate Judge Mark J. Dinsmore on 12/19/2022. (TPS) (Entered: 12/19/2022)
01/06/2023	<u>49</u>	Reassignment of Case to Magistrate Judge M. Kendra Klump. Magistrate Judge Mark J. Dinsmore is no longer assigned to this case. Please include the new case number (2:20-cv-00614-JPH-MKK), which includes the initials of the newly assigned judge, on all future filings in this matter. (CJD) (Entered: 01/06/2023)
04/11/2023	<u>50</u>	ORDER Setting Schedule for Discovery and Other Matters in Prisoner Litigation - This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 11/6/2023. Discovery due by 10/5/2023. Copy sent to plaintiff via US mail. Signed by Magistrate Judge M. Kendra Klump on 4/11/2023.(TPS) (Entered: 04/11/2023)
04/11/2023	<u>51</u>	ORDER SETTING TELEPHONIC STATUS CONFERENCE - This case is set for a telephonic Status Conference on 6/12/2023 10:30 AM (Eastern Time) before Magistrate Judge M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at the Wabash Valley Correctional Facility by separate email with the call-in information to be used to connect Mr. Carter to the conference. Copy to plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 4/11/2023.(KAA) (Entered: 04/12/2023)
04/11/2023	<u>52</u>	ORDER to Make Inmate Available - via Telephone. Warden of Wabash Valley Correctional Facility ordered to make ANTWION CARTER Available - via Telephone for court proceeding on 6/12/2023. The Court will contact Wabash Correctional Facility staff by separate email with the information to be used to connect Mr. Carter to the conference. Copy to plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 4/11/2023.(KAA) (Entered: 04/12/2023)
04/25/2023	<u>54</u>	MOTION to Appoint Counsel, filed by Plaintiff ANTWION CARTER. (JDC) (Entered: 04/26/2023)
04/25/2023	<u>55</u>	BRIEF/MEMORANDUM in Support re <u>54</u> MOTION to Appoint Counsel, filed by Plaintiff ANTWION CARTER. (JDC) (Entered: 04/26/2023)
05/23/2023	<u>56</u>	ORDER DENYING MOTION FOR ASSISTANCE RECRUITING COUNSEL - Mr. Carter's motion for assistance recruiting counsel, dkt. <u>54</u> , is denied without prejudice because it does not provide sufficient information, such as his educational background and litigation experience, to make a determination on the merits or acknowledge the conditions

		of the appointment of counsel. The clerk is directed to send Mr. Carter a motion for assistance recruiting counsel form, which he must use if he chooses to renew his motion (SEE ORDER). Signed by Judge James Patrick Hanlon on 5/23/2023. Copy to Plaintiff via US Mail. (Attachments: # <u>1</u> motion for assistance recruiting counsel form) (DWH) (Entered: 05/23/2023)
05/30/2023	<u>57</u>	MOTION Requesting Copy of Docket Sheet, filed by Plaintiff ANTWION CARTER. (Attachments: # <u>1</u> Exhibit Copy of Dkts. 54 and 55) (JSR) (Entered: 05/30/2023)
06/01/2023	<u>58</u>	MOTION for Assistance with Recruiting Counsel, filed by Plaintiff ANTWION CARTER. (Attachments: # <u>1</u> Exhibit)(KAA) (Entered: 06/01/2023)
06/02/2023	<u>59</u>	ORDER Granting Motion for Copies - The plaintiff's motion for copy of docket sheet, dkt. <u>57</u> , is GRANTED. The clerk shall include a copy of the docket sheet, with the plaintiff's copy of this Order. Signed by Magistrate Judge M. Kendra Klump on 6/2/2023 (Copy mailed to Plaintiff). (Attachments: # <u>1</u> Docket Sheet) (LBT) (Entered: 06/02/2023)
06/09/2023	<u>60</u>	NOTICE of Appearance by Jordan Douglas Hall on behalf of Defendant RICHARD BROWN. (Hall, Jordan) (Entered: 06/09/2023)
06/12/2023	<u>61</u>	MOTION to Correct Error, filed by Plaintiff ANTWION CARTER. (AAS) (Entered: 06/12/2023)
06/12/2023	<u>62</u>	MINUTE ORDER for Telephonic Status Conference held before Magistrate Judge M. Kendra Klump on 6/12/2023. Plaintiff's deadline for producing initial disclosures to Defendants was extended to June 30, 2023. The conference concluded without further order. Signed by Magistrate Judge M. Kendra Klump. (BAS) (Entered: 06/12/2023)
06/12/2023	<u>63</u>	SCHEDULING ORDER: Telephonic Status Conference set for 9/11/2023 09:30 AM (Eastern Time) before Magistrate Judge M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at the Wabash Valley Correctional Facility by separate email with the call-in information to be used to connect Mr. Carter to the conference. Copy to Plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 6/12/2023.(SWM) (Entered: 06/12/2023)
06/12/2023	<u>64</u>	ORDER to Make Inmate Available - via Telephone. Warden of Wabash Valley Correctional Facility ordered to make ANTWION CARTER Available - via Telephone for court proceeding on 9/11/2023 at 9:30 a.m. (Eastern). Copy to Plaintiff via US Mail. Copy to Starla Perkinson via Email. Signed by Magistrate Judge M. Kendra Klump on 6/12/2023. (SWM) (Entered: 06/12/2023)
06/23/2023	<u>66</u>	Submission of Initial Disclosures, filed by Plaintiff ANTWION CARTER. (JRB) (Entered: 06/26/2023)
06/23/2023	<u>67</u>	Submission of Interrogatories, filed by Plaintiff ANTWION CARTER. (JRB) (Entered: 06/26/2023)
06/23/2023	<u>68</u>	REQUEST for Admissions, filed by Plaintiff ANTWION CARTER.(JRB) (Entered: 06/26/2023)
06/23/2023	<u>69</u>	REQUEST for Production of Documents, filed by Plaintiff ANTWION CARTER.(JRB) (Entered: 06/26/2023)
07/07/2023	<u>70</u>	MOTION to Take Deposition from Plaintiff , filed by Defendant RICHARD BROWN. (Attachments: # <u>1</u> Text of Proposed Order Granting Leave to Depose Plaintiff)(Shouse, Eric) (Entered: 07/07/2023)

07/13/2023	<u>71</u>	ORDER GRANTING MOTION FOR ASSISTANCE RECRUITING COUNSEL: The Court finds that this case may involve complex issues of law in an evolving area of due process with respect to prison disciplinary processes and the placement of prisoners in long-term segregation. Given Mr. Carter's limited education and physical and mental health concerns, his motion for assistance recruiting counsel, Docket Entry <u>58</u> , is GRANTED. His motion to correct an inaccurate statement in his motion for counsel (he inadvertently stated that he sought legal representation from opposing counsel), Docket Entry <u>61</u> , is GRANTED. The Court will attempt to recruit counsel on Mr. Carter's behalf. The defendant has moved to take Mr. Carter's deposition. Dkt. 70. Given that Mr. Carter will soon be represented by an attorney, the motion to take his deposition, Docket Entry <u>70</u> , is DENIED WITHOUT PREJUDICE. The defendant may renew this motion after recruited counsel appears for Mr. Carter. See Order. Signed by Judge James Patrick Hanlon on 7/13/2023.(Copy sent to Plaintiff via US Mail.) (LF) (Entered: 07/13/2023)
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